



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0203/2  
RCT&MES:cjs:md

DOA:.....Miner, BB0112 - Change farmland preservation program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

- 1     **AN ACT ...; relating to:** farmland preservation, the farmland preservation tax  
2             credit, the farmland tax relief credit, making an appropriation, and granting  
3             rule-making authority.

---

*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**

**FARMLAND PRESERVATION PROGRAM**

***General***

This bill makes numerous changes in the Farmland Preservation Program, which contains some of the requirements that a farmer must meet to qualify for the farmland preservation tax credit. The Farmland Preservation Program includes farmland preservation planning, farmland preservation zoning, farmland preservation agreements, and soil and water conservation requirements.

Under current law, for a farmer to qualify for the farmland preservation tax credit the farm must be in a zoning district zoned exclusively for agriculture under a zoning ordinance certified by the Land and Water Conservation Board (LWCB) or be covered by a farmland preservation agreement executed by DATCP, or both. In order for DATCP to enter into a farmland preservation agreement, the county in which the farmer lives must have a farmland preservation plan that is certified by LWCB.

Under the bill, DATCP certifies farmland preservation plans and zoning ordinances.

### ***Farmland preservation planning***

This bill requires every county to adopt a farmland preservation plan. The bill does not require that a county get its plan certified, but if a county does not have a certified plan, a farmer in the county is ineligible for the farmland preservation tax credit, unless the farm is covered by a farmland preservation agreement entered into before the bill becomes law.

The bill provides that the certifications of current farmland preservation plans expire according to a schedule specified in the bill, except for certifications that currently contain expiration dates. The expiration dates in the bill range from December 31, 2011, to December 31, 2015. The higher increase in the population per square mile of a county, the sooner its farmland preservation plan certification expires. A county must submit an updated farmland preservation plan that meets the requirements in the bill and get it certified by DATCP to enable to farmers in the county to continue to claim the farmland preservation tax credit. Under the bill, DATCP must certify a plan for a period of not more than ten years.

The bill requires a county to include all of the following in its farmland preservation plan:

1. A statement of the county's policy and goals related to farmland preservation and agricultural development.
2. A description of trends and plans related to development that may affect farmland preservation and agricultural development.
3. A description of current agricultural uses of land in the county; agricultural resources, such as available land and water; agricultural infrastructure, such as processing and transportation facilities; trends in the county related to agricultural land use; and actions that the county will take to preserve farmland and promote agricultural development.
4. An identification of farmland preservation areas, which are areas that the county plans to preserve for agricultural use and for related uses, such as facilities for processing agricultural products or agricultural waste.

The bill requires a county that has a comprehensive plan (including what is commonly known as a smart growth plan) to ensure that the farmland preservation plan is consistent with its comprehensive plan.

The bill requires a county seeking to have DATCP certify its farmland preservation plan to submit the plan and related information to DATCP. The county must certify that the plan complies with the requirements in the bill. DATCP may certify the plan based on the county's certification or may review the plan and determine whether it does comply with those requirements. The bill requires a county with a certified farmland preservation plan to submit any amendments to the plan to DATCP for certification.

The bill establishes a program under which DATCP awards planning grants to counties. A grant may reimburse a county for up to 50 percent of the cost of preparing a farmland preservation plan. DATCP may not distribute more than 50 percent of a grant before the county submits the plan to DATCP for certification.

***Farmland preservation zoning***

Under this bill, as under current law, a city, village, town, or county (political subdivision) may adopt a zoning ordinance that enables farmers to be eligible for the farmland preservation tax credit.

The bill provides that certifications of current farmland preservation zoning ordinances expire according to a schedule specified in the bill, except for certifications that currently contain expiration dates. The dates range from December 31, 2012, to December 31, 2016. The higher the increase in population per square mile of a political subdivision, the sooner its certification expires. A political subdivision must submit an updated farmland preservation zoning ordinance that meets the requirements in the bill and have it certified by DATCP to enable the farmers in the political subdivision to continue to claim the farmland preservation tax credit based on the zoning ordinance. Under the bill, DATCP must certify a zoning ordinance for a period of not more than ten years.

Under the bill, to be eligible for certification, a farmland preservation zoning ordinance must be substantially consistent with a certified county farmland preservation ordinance.

Under current law, land in a farmland preservation zoning district must be limited to agricultural use, with certain exceptions. Current law allows, as conditional uses, agriculturally related, religious, utility, institutional, or governmental uses that are consistent with agricultural use and are necessary in light of alternative locations available. Family farm businesses may also be allowed, with a conditional use permit, if they are conducted in existing structures.

Under the bill, in addition to agricultural uses, a political subdivision may allow accessory uses and agriculture-related uses in a farmland preservation zoning district with a conditional use permit. Accessory uses are conducted on a farm and include uses that are incidental to agricultural uses and family farm businesses. Agriculture-related uses include businesses that sell farm equipment or supplies and businesses that store or process agricultural products or that process agricultural wastes. A political subdivision may also include undeveloped natural resource and open space areas in a farmland preservation zoning district. DATCP may promulgate rules that specify additional uses that may be allowed in farmland preservation districts without a conditional use permit.

The bill also specifies other uses that may be allowed in a farmland preservation zoning district with a conditional use permit. Generally, transportation, communications, utility, governmental, institutional, religious, and nonprofit community uses are in this category if the political subdivision makes certain determinations. The determinations include that the proposed use and its location in the zoning district are reasonable and appropriate, considering alternative locations, that the use is reasonably designed to minimize the conversion of land from agricultural use or open space, and that the use does not substantially impair the agricultural use of surrounding parcels that are zoned for agricultural use.

Current law requires a political subdivision to specify a minimum lot size for farmland preservation zoning districts. This bill eliminates that requirement.

This bill provides two methods for political subdivisions to allow the construction of nonfarm residences in farmland preservation zoning districts. A political subdivision may issue a conditional use permit for the construction of one nonfarm residence if several requirements are satisfied. The requirements include that the ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence will be located will not be greater than 1 to 20 after the residence is constructed and that there will not be more than four nonfarm dwelling units, nor five dwelling units of any kind, on the base farm tract after the nonfarm residence is constructed. A base farm tract is all of the land, whether one parcel or two or more contiguous parcels, that is in a farmland preservation zoning district and is part of a single farm when DATCP first certifies the updated farmland preservation zoning ordinance.

The bill also authorizes a political subdivision to issue a conditional use permit that covers more than one nonfarm residence in what is called a nonfarm residential cluster. The parcels on which the nonfarm residences would be constructed must be contiguous and the political subdivision must ensure that if all of the nonfarm residences were constructed, each would satisfy the conditions described above for approval of one nonfarm residence.

The bill requires a political subdivision seeking to have DATCP certify its farmland preservation zoning ordinance to submit the ordinance and related information to DATCP. The political subdivision must certify that the ordinance complies with the requirements in this bill. DATCP may certify the ordinance based on the political subdivision's certification or may review the ordinance and determine whether it does comply with those requirements.

Under current law, a political subdivision may rezone land out of a farmland preservation zoning district only after making findings based on consideration of whether adequate public facilities exist or will be provided to accommodate development, whether providing public facilities to accommodate development will place an unreasonable burden on affected local governments, whether the land proposed for rezoning is suitable for development, and whether development will cause undue water or air pollution or unreasonably adverse effects on rare natural areas. The law requires political subdivisions to notify DATCP when they rezone land out of a farmland preservation district.

Under the bill, in order to rezone land out of a farmland preservation zoning district, a political subdivision must make a number of findings, including that the land is better suited for a use not allowed in a farmland preservation zoning district, that the rezoning is substantially consistent with the certified county farmland preservation plan, and that the rezoning will not not substantially impair the agricultural use of surrounding parcels that are zoned for agricultural use. The bill does not require a political subdivision to report each rezoning, but it does require an annual report of the amount and location of land that was rezoned.

Under current law, when property is rezoned out of a farmland preservation zoning district, DATCP is required to place a lien on the rezoned land until the owner of the land makes a payment to this state that is equal to the farmland preservation tax credits received by the owner of the land during the preceding ten years plus

interest. The law also requires DATCP to file a lien when a conditional use permit is granted for a use that is not an agricultural use.

The bill eliminates the lien requirements. Under the bill, a political subdivision may not rezone land out of a farmland preservation zoning district until the owner of the land makes a payment to the political subdivision equal to the number of acres rezoned multiplied by three times the per acre value of the highest value of cropland in the city, village, or town in which the land is located as determined by DOR for the purposes of use value assessment. A political subdivision must annually pay this amount to DATCP for each parcel of land that it rezones. A political subdivision may require a higher payment for rezoning and retain the amount in excess of what it must pay to DATCP.

Under the bill, most amendments to a certified farmland preservation zoning ordinance are automatically considered to be certified. An amendment that is a comprehensive revision of the ordinance or an amendment that extends coverage of an ordinance to a town that was not previously covered is not automatically considered to be certified, and DATCP may specify other types of amendments that are not automatically considered to be certified.

### ***Farmland preservation agreements***

Under current law, DATCP enters into farmland preservation agreements with farmers in counties with certified farmland preservation plans. To qualify for coverage under an agreement, the land must consist of at least 35 acres and produce a specified amount of farm profits and must be in an agricultural preservation planning area or in a farmland preservation zoning district under a certified ordinance. An agreement requires the landowner to maintain the land in agricultural use for a term specified in the agreement, except that DATCP may release land from the agreement under specified circumstances. The term of a farmland preservation agreement must be from ten to 25 years, subject to renewal for additional ten- to 25-year terms.

This bill prohibits DATCP from renewing current farmland preservation agreements. The bill authorizes DATCP to enter into a new farmland preservation agreement only for land that is in an agricultural enterprise area, designated by DATCP using the current statutory procedure for promulgating emergency rules. To qualify for coverage by a farmland preservation agreement, land must produce a specified amount of gross farm revenues. A farmland preservation agreement must be for a term of at least 15 years.

Under the bill, DATCP may not designate agricultural enterprise areas with a combined area of more than 1,000,000 acres and, before January 1, 2012, may not designate agricultural enterprise areas with a combined area of more than 200,000 acres. DATCP may not designate an area as an agricultural enterprise area unless it is entirely located in a farmland preservation area identified in a certified farmland preservation plan and it is primarily in agricultural use. DATCP may not designate an area as an agricultural enterprise area unless it receives a petition requesting the designation filed by each political subdivision in which any part of the area is located and by the owners of at least five farms that would be eligible for coverage by farmland preservation agreements.

Current law specifies situations in which DATCP may release land from, or terminate, a farmland preservation agreement. Generally, when land is released or an agreement is terminated DATCP is required to place a lien on the land until the owner of the land makes a payment to this state that is equal to the farmland preservation tax credits received by the owner during the preceding ten years plus interest.

This bill eliminates the lien requirement. Under the bill, DATCP may release land from, or terminate, a farmland preservation agreement if it finds that the termination or release will not impair or limit agricultural use of other farmland that is covered by an agreement or is in a farmland preservation zoning district and if the owner of the land pays to DATCP an amount equal to the number of acres rezoned multiplied by three times the per acre value of the highest value of cropland in the city, village, or town in which the land is located as determined by DOR for the purposes of use value assessment.

### ***Soil and water conservation***

Current law requires counties to establish soil and water conservation standards. The county must have the standards approved by LWCB in order for farmers in the county to be eligible for farmland preservation tax credits. The law requires a county to monitor compliance with its soil and water conservation standards. If a county determines that a farmer violates the standards, it must issue a notice of noncompliance to the farmer. As long as a farmer is out of compliance with the county standards, the farmer is ineligible for the farmland preservation tax credit.

This bill eliminates the requirement that each county establish soil and water conservation standards. Under the bill, a farmer must comply with land and water conservation standards that DATCP has promulgated under other current laws. The bill continues the requirement that a county monitor compliance with the standards and specifically requires a county to inspect each farm for which the owner claims farmland preservation tax credits at least once every four years. The bill also requires farmers to certify compliance annually. The bill requires DATCP to review county compliance with the monitoring requirement. The bill requires a county to issue a notice of noncompliance if it determines that a farmer violates the standards or fails to certify compliance. The county must provide a copy of each notice to DOR. As long as a farmer is out of compliance with DATCP's standards, the farmer is ineligible for the farmland preservation tax credit.

For a description of the changes in the farmland preservation tax credit, please see "TAXATION."

## **TAXATION**

### **INCOME TAXATION**

Under current law, an eligible claimant may recover a certain amount of property taxes paid through the refundable farmland preservation tax credit. A refundable tax credit means that, if the amount of the credit which is otherwise due an eligible claimant exceeds the claimant's tax liability, or if there is no outstanding tax liability, the excess amount of the credit is paid to the claimant by check.

One of the current law eligibility requirements for the farmland preservation tax credit is that the farmland to which the claim relates be subject either to a farmland preservation agreement or to a county exclusive agricultural use zoning ordinance. A farmland preservation agreement and an exclusive agricultural use zoning ordinance require the claimant to abide by certain soil and water conservation standards. A farmland preservation agreement is generally entered into for a term of 10 to 25 years, although the parties may agree to relinquish the agreement under certain circumstances.

The credit is computed under a formula that is based on property taxes accrued on the claimant's farmland in the preceding calendar year, the claimant's household income, and the agreement, planning, or zoning provisions that cover the farmland. The maximum credit that a claimant is eligible for is \$4,200, and the minimum credit that an eligible claimant may receive is \$600. The maximum credit for which the claimant is otherwise eligible is reduced based on the zoning ordinances that are in effect in the county in which the farmland is located, although the minimum credit is never less than \$600 for an eligible claimant.

Under this bill, no new claims may be filed for taxable years beginning after December 31, 2009, but an otherwise eligible claimant who is subject to a farmland preservation agreement that is in effect on January 1, 2010, may continue to file a claim for the credit until the agreement expires.

This bill also creates a new farmland preservation credit which is refundable. The credit is funded from the lottery fund, up to approximately \$15,000,000 of claims, and any excess claims, up to approximately \$12,280,000 are funded from the general fund. Under the bill, the maximum amount of credits that may be claimed each year may not exceed \$27,280,000. If the total amount of eligible claims exceed \$27,280,00, DOR is required to pay the excess claims in the next subsequent fiscal year and prorate the per acre amounts (see below) to account for prior year claims that are paid in the year subsequent to that year. If a claimant's payment is so delayed, the claimant may not receive any interest on his delayed payment, or any other refund.

The new farmland preservation credit is calculated by multiplying a claimant's qualifying acres (QA) by one of the following amounts: \$10, if the QA are in a farmland preservation zoning district and are subject to a new farmland preservation agreement (FPA), meaning a FPA that was entered into after the effective date of the bill; \$7.50 if the QA are located in a farmland preservation zoning district, but are not subject to a new FPA; or \$5.00 if the QA are subject to a new FPA, but are not located in a farmland preservation zoning district.

Generally, the bill defines QA as the number of acres of farm that correlate to a claimant's percentage of ownership interest in a farm, the extent to which the farm is covered by a new FPA, and whether the farm is in farmland preservation zoning district. For a description of the requirements of a new FPA, see "AGRICULTURE."

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 20.115 (7) (dm) of the statutes is created to read:

2       20.115 (7) (dm) *Farmland preservation planning grants.* The amounts in the  
3       schedule for farmland preservation planning grants under s. 91.10 (6). No moneys  
4       may be encumbered under this paragraph after June 30, 2016.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5       **SECTION 2.** 20.115 (7) (tb) of the statutes is created to read:

6       20.115 (7) (tb) *Principal and interest; agricultural conservation easements,*  
7       *working lands fund.* From the working lands fund, the amounts in the schedule to  
8       reimburse s. 20.866 (1) (u) for the principal and interest costs incurred in purchasing  
9       agricultural conservation easements under s. 93.73, to make the payments  
10      determined by the building commission under s. 13.488 (1) (m) that are attributable  
11      to the proceeds of obligations incurred to purchase those easements, and to make  
12      payments under an agreement or ancillary arrangement entered into under s. 18.06  
13      (8) (a).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

      \*\*\*\*NOTE: This SECTION depends on the inclusion of LRB-0202 in the bill. If that draft is not included, this SECTION must be deleted.

14      **SECTION 3.** 20.115 (7) (tg) of the statutes is created to read:

15      20.115 (7) (tg) *Agricultural conservation easements.* From the working lands  
16      fund, the amounts in the schedule for the purchase of agricultural conservation  
17      easements under s. 93.73.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.



\*\*\*\*NOTE: This SECTION depends on the inclusion of LRB-0202 in the bill. If that draft is not included, this SECTION must be deleted.

1       **SECTION 4.** 20.115 (7) (tm) of the statutes is created to read:

2       20.115 (7) (tm) *Farmland preservation planning grants, working lands fund.*

3       From the working lands fund, the amounts in the schedule for farmland preservation  
4       planning grants under s. 91.10 (6).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5       **SECTION 5.** 20.115 (7) (ts) of the statutes is created to read:

6       20.115 (7) (ts) *Working lands programs.* From the working lands fund, the  
7       amounts in the schedule for administration of the farmland preservation program  
8       under ch. 91 and the program to purchase conservation easements under s. 93.73.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

      \*\*\*\*NOTE: This reference in this SECTION to s. 93.73 depends on the inclusion of LRB-0202 in the bill. If that draft is not included, this SECTION must be modified.

9       **SECTION 6.** 20.566 (1) (t) of the statutes is created to read:

10       20.566 (1) (t) *Farmland preservation credit, 2010 and beyond.* From the  
11       working lands fund, the amounts in the schedule for administration of the farmland  
12       preservation tax credit under s. 71.613.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

13       **SECTION 7.** 20.835 (2) (d) of the statutes is repealed.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

14       **SECTION 8.** 20.835 (2) (dm) of the statutes is amended to read:

15       20.835 (2) (dm) *Farmland preservation credit.* A sum sufficient to pay the  
16       aggregate claims approved under subch. IX of ch. 71 ss. 71.57 to 71.61.

17       **SECTION 9.** 20.835 (2) (do) of the statutes is created to read:

1           20.835 (2) (do) *Farmland preservation credit, 2010 and beyond*. The amounts  
2           in the schedule to pay the aggregate claims approved under s. 71.613 (2), to the extent  
3           that these claims are not paid under par. (qb).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
reflected in the revised schedule in s. 20.005, stats.

4           **SECTION 10.** 20.835 (2) (q) of the statutes is amended to read:

5           20.835 (2) (q) *Farmland tax relief credit*. From the lottery fund, a sum  
6           sufficient to pay the aggregate claims approved under ss. 71.07 (3m) (c), 71.28 (2m)  
7           (c), and 71.47 (2m) (c), to the extent that these claims are not paid under par. (ka).  
8           No moneys may be encumbered or expended from this appropriation account during  
9           1999-00, or for a taxable year that begins after December 31, 2009.

10          **SECTION 11.** 20.835 (2) (qb) of the statutes is created to read:

11          20.835 (2) (qb) *Farmland preservation credit, 2010 and beyond; lottery fund*.  
12          From the lottery fund, the amounts in the schedule to pay the aggregate claims  
13          approved under s. 71.613 (2).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
reflected in the revised schedule in s. 20.005, stats.

14          **SECTION 12.** 23.094 (2) (c) 3. of the statutes is repealed.

15          **SECTION 13.** 25.17 (1) (yx) of the statutes is created to read:

16          25.17 (1) (yx) *Working lands fund* (s. 25.466);

17          **SECTION 14.** 25.466 of the statutes is created to read:

18          **25.466 Working lands fund.** There is created a separate trust fund  
19          designated as the working lands fund, consisting of all moneys received under ss.  
20          91.48 (2) (c) and 91.66 (1) (c).

21          **SECTION 15.** 30.29 (3) (b) of the statutes is amended to read:

1           30.29 (3) (b) *Agriculture activities*. A person operating a motor vehicle while  
2           the person is engaged in agricultural use, as defined under s. 91.01 ~~(1)~~ (2).

3           **SECTION 16.** 32.035 (1) (b) of the statutes is amended to read:

4           32.035 (1) (b) “Farm operation” means any activity conducted solely or  
5           primarily for the production of one or more agricultural commodities resulting from  
6           an agricultural use, as defined in s. 91.01 ~~(1)~~ (2), for sale and home use, and  
7           customarily producing the commodities in sufficient quantity to be capable of  
8           contributing materially to the operator’s support.

9           **SECTION 17.** 66.0307 (7m) of the statutes is amended to read:

10          66.0307 (7m) ZONING IN TOWN TERRITORY. If a town is a party to a cooperative  
11          plan with a city or village, the town and city or village may agree, as part of the  
12          cooperative plan, to authorize the town, city or village to adopt a zoning ordinance  
13          under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the  
14          plan. The exercise of zoning authority by a town under this subsection is not subject  
15          to s. 60.61 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory  
16          covered by the plan, that ordinance and amendments to it continue until a zoning  
17          ordinance is adopted under this subsection. If a zoning ordinance is adopted under  
18          this subsection, that zoning ordinance continues in effect after the planning period  
19          ceases until a different zoning ordinance for the territory is adopted under other  
20          applicable law. This subsection does not affect zoning ordinances adopted under ss.  
21          s. 59.692, or 87.30 or 91.71 to 91.78 ch. 91.

22          **SECTION 18.** 66.0721 (1) (a) of the statutes is amended to read:

23          66.0721 (1) (a) “Agricultural use” has the meaning given in s. 91.01 ~~(1)~~ (2) and  
24          includes any additional agricultural uses of land, as determined by the town sanitary  
25          district or town.

1       **SECTION 19.** 66.0721 (1) (b) of the statutes is amended to read:

2       66.0721 (1) (b) "Eligible farmland" means ~~a parcel of 35 or more acres of~~  
3       ~~contiguous land which is devoted exclusively to agricultural use which during the~~  
4       ~~year preceding the year in which the land is subject to a special assessment under~~  
5       ~~this section produced gross farm profits, as defined in s. 71.58 (4), of not less than~~  
6       ~~\$6,000 or which, during the 3 years preceding the year in which the land is subject~~  
7       ~~to a special assessment under this section, produced gross farm profits, as defined~~  
8       ~~in s. 71.58 (4), of not less than \$18,000 that is eligible for farmland preservation tax~~  
9       ~~credits under ss. 71.58 to 71.61 or 71.613.~~

10       **SECTION 20.** 71.07 (2fd) of the statutes is repealed.

11       **SECTION 21.** 71.07 (3m) (a) 1. (intro.) of the statutes is amended to read:

12       71.07 (3m) (a) 1. (intro.) "Claimant" means an owner of farmland, as defined  
13       in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year  
14       for which a credit under this subsection is claimed, except as follows:

15       **SECTION 22.** 71.07 (3m) (a) 3. of the statutes is amended to read:

16       71.07 (3m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive  
17       of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007  
18       stats., and owned by the claimant or any member of the claimant's household during  
19       the taxable year for which a credit under this subsection is claimed if the farm of  
20       which the farmland is a part, during that year, produced not less than \$6,000 in gross  
21       farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or  
22       if the farm of which the farmland is a part, during that year and the 2 years  
23       immediately preceding that year, produced not less than \$18,000 in such profits, or  
24       if at least 35 acres of the farmland, during all or part of that year, was enrolled in the  
25       conservation reserve program under 16 USC 3831 to 3836.

1           **SECTION 23.** 71.07 (3m) (a) 4. of the statutes is amended to read:

2           71.07 **(3m)** (a) 4. "Gross farm profits" means gross receipts, excluding rent,  
3           from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market  
4           value at the time of disposition of payments in kind for placing land in federal  
5           programs or payments from the federal dairy termination program under 7 USC  
6           1446 (d), less the cost or other basis of livestock or other items purchased for resale  
7           which are sold or otherwise disposed of during the taxable year.

8           **SECTION 24.** 71.07 (3m) (e) of the statutes is created to read:

9           71.07 **(3m)** (e) *Sunset*. No new claim may be filed under this subsection for a  
10          taxable year that begins after December 31, 2009.

11          **SECTION 25.** 71.28 (1fd) of the statutes is repealed.

12          **SECTION 26.** 71.28 (2m) (a) 1. (intro.) of the statutes is amended to read:

13          71.28 **(2m)** (a) 1. (intro.) "Claimant" means an owner of ~~farmland~~, as defined  
14          in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year  
15          for which a credit under this subsection is claimed, except as follows:

16          **SECTION 27.** 71.28 (2m) (a) 3. of the statutes is amended to read:

17          71.28 **(2m)** (a) 3. "Farmland" means 35 or more acres of real property, exclusive  
18          of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007  
19          stats., and owned by the claimant or any member of the claimant's household during  
20          the taxable year for which a credit under this subsection is claimed if the farm of  
21          which the farmland is a part, during that year, produced not less than \$6,000 in gross  
22          farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or  
23          if the farm of which the farmland is a part, during that year and the 2 years  
24          immediately preceding that year, produced not less than \$18,000 in such profits, or

1 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the  
2 conservation reserve program under 16 USC 3831 to 3836.

3 **SECTION 28.** 71.28 (2m) (a) 4. of the statutes is amended to read:

4 71.28 **(2m)** (a) 4. "Gross farm profits" means gross receipts, excluding rent,  
5 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market  
6 value at the time of disposition of payments in kind for placing land in federal  
7 programs or payments from the federal dairy termination program under 7 USC  
8 1446 (d), less the cost or other basis of livestock or other items purchased for resale  
9 which are sold or otherwise disposed of during the taxable year.

10 **SECTION 29.** 71.28 (2m) (e) of the statutes is created to read:

11 71.28 **(2m)** (e) *Sunset.* No new claim may be filed under this subsection for a  
12 taxable year that begins after December 31, 2009.

13 **SECTION 30.** 71.47 (1fd) of the statutes is repealed.

14 **SECTION 31.** 71.47 (2m) (a) 1. (intro.) of the statutes is amended to read:

15 71.47 **(2m)** (a) 1. (intro.) "Claimant" means an owner of farmland, as defined  
16 in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year  
17 for which a credit under this subsection is claimed, except as follows:

18 **SECTION 32.** 71.47 (2m) (a) 3. of the statutes is amended to read:

19 71.47 **(2m)** (a) 3. "Farmland" means 35 or more acres of real property, exclusive  
20 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007  
21 stats., and owned by the claimant or any member of the claimant's household during  
22 the taxable year for which a credit under this subsection is claimed if the farm of  
23 which the farmland is a part, during that year, produced not less than \$6,000 in gross  
24 farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or  
25 if the farm of which the farmland is a part, during that year and the 2 years

1 immediately preceding that year, produced not less than \$18,000 in such profits, or  
2 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the  
3 conservation reserve program under 16 USC 3831 to 3836.

4 **SECTION 33.** 71.47 (2m) (a) 4. of the statutes is amended to read:

5 71.47 (2m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,  
6 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market  
7 value at the time of disposition of payments in kind for placing land in federal  
8 programs or payments from the federal dairy termination program under 7 USC  
9 1446 (d), less the cost or other basis of livestock or other items purchased for resale  
10 which are sold or otherwise disposed of during the taxable year.

11 **SECTION 34.** 71.47 (2m) (e) of the statutes is created to read:

12 71.47 (2m) (e) *Sunset.* No new claim may be filed under this subsection for a  
13 taxable year that begins after December 31, 2009.

14 **SECTION 35.** 71.57 of the statutes is amended to read:

15 **71.57 Purpose.** The purpose of ~~this subchapter ss. 71.58 to 71.61~~ is to provide  
16 credit to owners of farmland which is subject to agricultural use restrictions, through  
17 a system of income or franchise tax credits and refunds and appropriations from the  
18 general fund.

19 **SECTION 36.** 71.58 (intro.) of the statutes is amended to read:

20 **71.58 Definitions.** (intro.) In ~~this subchapter ss. 71.57 to 71.61:~~

21 **SECTION 37.** 71.58 (1) (intro.) of the statutes is amended to read:

22 71.58 (1) (intro.) "Claimant" means an owner of farmland, as defined in s. 91.01  
23 (9), 2007 stats., of farmland, domiciled in this state during the entire year for which  
24 a credit under ~~this subchapter ss. 71.57 to 71.61~~ is claimed, except as follows:

25 **SECTION 38.** 71.58 (1) (b) of the statutes is amended to read:

1           71.58 (1) (b) If any person in a household has claimed or will claim credit under  
2       subch. VIII, all persons from that household are ineligible to claim any credit under  
3       ~~this subchapter ss. 71.57 to 71.61~~ for the year to which the credit under subch. VIII  
4       pertained.

5           **SECTION 39.** 71.58 (1) (d) of the statutes is amended to read:

6           71.58 (1) (d) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~  
7       71.61, the personal representative of an estate and the trustee of a trust shall be  
8       deemed owners of farmland. "Claimant" does not include the estate of a person who  
9       is a nonresident of this state on the person's date of death, a trust created by a  
10      nonresident person, a trust which receives Wisconsin real property from a  
11      nonresident person or a trust in which a nonresident settlor retains a beneficial  
12      interest.

13          **SECTION 40.** 71.58 (1) (e) of the statutes is amended to read:

14          71.58 (1) (e) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~  
15      71.61, when land is subject to a land contract, the claimant shall be the vendee under  
16      the contract.

17          **SECTION 41.** 71.58 (1) (f) of the statutes is amended to read:

18          71.58 (1) (f) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~  
19      71.61, when a guardian has been appointed in this state for a ward who owns the  
20      farmland, the claimant shall be the guardian on behalf of the ward.

21          **SECTION 42.** 71.58 (3) of the statutes is amended to read:

22          71.58 (3) "Farmland" means 35 or more acres of real property in this state  
23      owned by the claimant or any member of the claimant's household during the taxable  
24      year for which a credit under ~~this subchapter ss. 71.57 to 71.61~~ is claimed if the  
25      farmland, during that year, produced not less than \$6,000 in gross farm profits



1 resulting from the farmland's agricultural use, as defined in s. 91.01 (1), 2007 stats.,  
2 or if the farmland, during that year and the 2 years immediately preceding that year,  
3 produced not less than \$18,000 in such profits, or if at least 35 acres of the farmland,  
4 during all or part of that year, was enrolled in the conservation reserve program  
5 under 16 USC 3831 to 3836.

6 **SECTION 43.** 71.58 (4) of the statutes is amended to read:

7 71.58 (4) "Gross farm profits" means gross receipts, excluding rent, from  
8 agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market  
9 value at the time of disposition of payments in kind for placing land in federal  
10 programs or payments from the federal dairy termination program under 7 USC  
11 1446 (d), less the cost or other basis of livestock or other items purchased for resale  
12 which are sold or otherwise disposed of during the taxable year.

13 **SECTION 44.** 71.58 (8) of the statutes is amended to read:

14 71.58 (8) "Property taxes accrued" means property taxes, exclusive of special  
15 assessments, delinquent interest and charges for service, levied on the farmland and  
16 improvements owned by the claimant or any member of the claimant's household in  
17 any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the  
18 property by s. 79.10. "Property taxes accrued" shall not exceed \$6,000. If farmland  
19 is owned by a tax-option corporation, a limited liability company or by 2 or more  
20 persons or entities as joint tenants, tenants in common or partners or is marital  
21 property or survivorship marital property and one or more such persons, entities or  
22 owners is not a member of the claimant's household, "property taxes accrued" is that  
23 part of property taxes levied on the farmland, reduced by the tax credit under s.  
24 79.10, that reflects the ownership percentage of the claimant and the claimant's  
25 household. For purposes of this subsection, property taxes are "levied" when the tax

1 roll is delivered to the local treasurer for collection. If farmland is sold during the  
2 calendar year of the levy the "property taxes accrued" for the seller is the amount of  
3 the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing  
4 agreement pertaining to the sale of the farmland, except that if the seller does not  
5 reimburse the buyer for any part of those property taxes there are no "property taxes  
6 accrued" for the seller, and the "property taxes accrued" for the buyer is the property  
7 taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the  
8 seller reimburses the buyer for part of the property taxes, the amount prorated to the  
9 seller in the closing agreement. With the claim for credit under ~~this subchapter ss.~~  
10 71.57 to 71.61, the seller shall submit a copy of the closing agreement and the buyer  
11 shall submit a copy of the closing agreement and a copy of the property tax bill.

12 **SECTION 45.** 71.59 (1) (a) of the statutes is amended to read:

13 71.59 (1) (a) Subject to the limitations provided in ~~this subchapter ss. 71.57 to~~  
14 71.61 and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin  
15 income or franchise taxes otherwise due, the amount derived under s. 71.60. If the  
16 allowable amount of claim exceeds the income or franchise taxes otherwise due on  
17 or measured by the claimant's income or if there are no Wisconsin income or franchise  
18 taxes due on or measured by the claimant's income, the amount of the claim not used  
19 as an offset against income or franchise taxes shall be certified to the department of  
20 administration for payment to the claimant by check, share draft or other draft  
21 drawn on the general fund.

22 **SECTION 46.** 71.59 (1) (b) (intro.) of the statutes is amended to read:

23 71.59 (1) (b) (intro.) Every claimant under ~~this subchapter ss. 71.57 to 71.61~~  
24 shall supply, at the request of the department, in support of the claim, all of the  
25 following:

1           **SECTION 47.** 71.59 (1) (b) 4. of the statutes is amended to read:

2           71.59 (1) (b) 4. Certification by the claimant that each county land conservation  
3       committee with jurisdiction over the farmland has been notified that the claimant  
4       intends to submit a claim under ~~this subchapter~~ ss. 71.57 to 71.61.

5           **SECTION 48.** 71.59 (1) (c) of the statutes is amended to read:

6           71.59 (1) (c) A farmland preservation agreement submitted under par. (b) 3.  
7       shall contain provisions specified under s. 91.13 (8), 2007 stats., including either a  
8       provision requiring farming operations to be conducted in substantial accordance  
9       with a soil and water conservation plan prepared under s. 92.104, 2007 stats., or a  
10      provision requiring farming operations to be conducted in compliance with  
11      reasonable soil and water conservation standards established under s. 92.105, 2007  
12      stats.

13          **SECTION 49.** 71.59 (1) (d) 1. of the statutes is amended to read:

14          71.59 (1) (d) 1. That the lands are within the boundaries of an agricultural  
15      zoning district which is part of an adopted ordinance meeting the standards of subch.  
16      V of ch. 91, 2007 stats., and certified under s. 91.06, 2007 stats.

17          **SECTION 50.** 71.59 (1) (d) 5. of the statutes is amended to read:

18          71.59 (1) (d) 5. That soil and water conservation standards applicable to the  
19      land are established and approved as required under s. 92.105 (1) to (3), 2007 stats.,  
20      and that no notice of noncompliance is in effect under s. 92.105 (5), 2007 stats., with  
21      respect to the claimant at the time the certificate is issued.

22          **SECTION 51.** 71.59 (2) (intro.) of the statutes is amended to read:

23          71.59 (2) INELIGIBLE CLAIMS. (intro.) No credit shall be allowed under ~~this~~  
24      subchapter ss. 71.57 to 71.61:

25          **SECTION 52.** 71.59 (2) (b) of the statutes is amended to read:

1           71.59 (2) (b) If a notice of noncompliance with an applicable soil and water  
2 conservation plan under s. 92.104, 2007 stats., is in effect with respect to the  
3 claimant at the time the claim is filed.

4           **SECTION 53.** 71.59 (2) (c) of the statutes is amended to read:

5           71.59 (2) (c) If a notice of noncompliance with applicable soil and water  
6 conservation standards under s. 92.105, 2007 stats., is in effect with respect to the  
7 claimant at the time the claim is filed.

8           **SECTION 54.** 71.59 (2) (d) of the statutes is amended to read:

9           71.59 (2) (d) For property taxes accrued on farmland zoned for exclusive  
10 agricultural use under an ordinance certified under subch. V of ch. 91, 2007 stats.,  
11 which is granted a special exception or conditional use permit for a use which is not  
12 an agricultural use, as defined in s. 91.01 (1), 2007 stats.

13           **SECTION 55.** 71.59 (2) (e) of the statutes is amended to read:

14           71.59 (2) (e) If the department determines that ownership of the farmland has  
15 been transferred to the claimant primarily for the purpose of maximizing benefits  
16 under this subchapter ss. 71.57 to 71.61.

17           **SECTION 56.** 71.60 (1) (b) of the statutes is amended to read:

18           71.60 (1) (b) The credit allowed under ~~this subchapter~~ ss. 71.57 to 71.61 shall  
19 be limited to 90% of the first \$2,000 of excessive property taxes plus 70% of the 2nd  
20 \$2,000 of excessive property taxes plus 50% of the 3rd \$2,000 of excessive property  
21 taxes. The maximum credit shall not exceed \$4,200 for any claimant. The credit for  
22 any claimant shall be the greater of either the credit as calculated under ~~this~~  
23 ~~subchapter~~ ss. 71.57 to 71.61 as it exists at the end of the year for which the claim  
24 is filed or as it existed on the date on which the farmland became subject to a current

1 agreement under subch. II or III of ch. 91, 2007 stats., using for such calculations  
2 household income and property taxes accrued of the year for which the claim is filed.

3 **SECTION 57.** 71.60 (1) (c) 1. of the statutes is amended to read:

4 71.60 (1) (c) 1. If the farmland is located in a county which has a certified  
5 agricultural preservation plan under subch. IV of ch. 91, 2007 stats., at the close of  
6 the year for which credit is claimed and is in an area zoned by a county, city or village  
7 for exclusive agricultural use under ch. 91, 2007 stats., at the close of such year, the  
8 amount of the claim shall be that as specified in par. (b).

9 **SECTION 58.** 71.60 (1) (c) 2. of the statutes is amended to read:

10 71.60 (1) (c) 2. If the farmland is subject to a transition area agreement under  
11 subch. II of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the  
12 claimant had applied for such an agreement before July 1 of such year and the  
13 agreement has subsequently been executed, and the farmland is located in a city or  
14 village which has a certified exclusive agricultural use zoning ordinance under  
15 subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is  
16 claimed, or in a town which is subject to a certified county exclusive agricultural use  
17 zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year  
18 for which credit is claimed, the amount of the claim shall be that as specified in par.  
19 (b).

20 **SECTION 59.** 71.60 (1) (c) 3. of the statutes is amended to read:

21 71.60 (1) (c) 3. If the claimant or any member of the claimant's household owns  
22 farmland which is ineligible for credit under subd. 1. or 2. but was subject to a  
23 farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1  
24 of the year for which credit is claimed, or the owner had applied for such an  
25 agreement before July 1 of such year and the agreement has subsequently been

1     executed, and if the owner has applied by the end of the year in which conversion  
2     under s. 91.41, 2007 stats., is first possible for conversion of the agreement to a  
3     transition area agreement under subch. II of ch. 91, 2007 stats., and the transition  
4     area agreement has subsequently been executed, and the farmland is located in a city  
5     or village which has a certified exclusive agricultural use zoning ordinance under  
6     subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is  
7     claimed, or in a town which is subject to a certified county exclusive agricultural use  
8     zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year  
9     for which credit is claimed, the amount of the claim shall be that specified in par. (b).

10     **SECTION 60.** 71.60 (1) (c) 4. of the statutes is amended to read:

11     71.60 (1) (c) 4. If the claimant or any member of the claimant's household owns  
12     farmland which is ineligible for credit under subd. 1. or 2. but which is subject to a  
13     farmland preservation agreement or a transition area agreement under subch. II of  
14     ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the owner had  
15     applied for such an agreement before July 1 of such year and the agreement has  
16     subsequently been executed, the amount of the claim shall be limited to 80% of that  
17     specified in par. (b).

18     **SECTION 61.** 71.60 (1) (c) 5. of the statutes is amended to read:

19     71.60 (1) (c) 5. If the claimant or any member of the claimant's household owns  
20     farmland which is ineligible for credit under subds. 1. to 4. but was subject to a  
21     farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1  
22     of the year for which credit is claimed, or the owner had applied for such an  
23     agreement before July 1 of such year and the agreement has subsequently been  
24     executed, and if the owner has applied by the end of the year in which conversion  
25     under s. 91.41, 2007 stats., is first possible for conversion of the agreement to an

1 agreement under subch. II of ch. 91, 2007 stats., and the agreement under subch. II  
2 of ch. 91, 2007 stats., has subsequently been executed, the amount of the claim shall  
3 be limited to 80% of that specified in par. (b).

4 **SECTION 62.** 71.60 (1) (c) 6. of the statutes is amended to read:

5 71.60 (1) (c) 6. If the farmland is located in an agricultural district under a  
6 certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats.,  
7 at the close of the year for which credit is claimed, and is located in an area zoned for  
8 exclusive agricultural use under a certified town ordinance under subch. V of ch. 91,  
9 2007 stats., at the close of such year, the amount of the claim shall be the amount  
10 specified in par. (b).

11 **SECTION 63.** 71.60 (1) (c) 6m. of the statutes is amended to read:

12 71.60 (1) (c) 6m. If the farmland is located in an agricultural district under a  
13 certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats.,  
14 at the close of the year for which credit is claimed, and is located in an area zoned for  
15 exclusive agricultural use under a certified county or town ordinance under subch.  
16 V of ch. 91, 2007 stats., for part of a year but not at the close of that year because the  
17 farmland became subject to a city or village extraterritorial zoning ordinance under  
18 s. 62.23 (7a), the amount of the claim shall be equal to the amount that the claim  
19 would have been under this section if the farmland were subject to a certified county  
20 or town exclusive agricultural use ordinance at the close of the year.

21 **SECTION 64.** 71.60 (1) (c) 7. of the statutes is amended to read:

22 71.60 (1) (c) 7. If the farmland is located in an area zoned for exclusive  
23 agricultural use under a certified county, city or village ordinance under subch. V of  
24 ch. 91, 2007 stats., at the close of the year for which credit is claimed, but the county  
25 in which the farmland is located has not adopted an agricultural preservation plan

1 under subch. IV of ch. 91, 2007 stats., by the close of such year, the amount of the  
2 claim shall be limited to 70% of that specified in par. (b).

3 **SECTION 65.** 71.60 (1) (c) 8. of the statutes is amended to read:

4 71.60 (1) (c) 8. If the farmland is subject to a farmland preservation agreement  
5 under subch. III of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed  
6 or the claimant had applied for such an agreement before July 1 of such year and the  
7 agreement has subsequently been executed, the amount of the claim shall be limited  
8 to 50% of that specified in par. (b).

9 **SECTION 66.** 71.60 (2) of the statutes is amended to read:

10 71.60 (2) If the farmland is subject to a certified ordinance under subch. V of  
11 ch. 91, 2007 stats., or an agreement under subch. II of ch. 91, 2007 stats., in effect  
12 at the close of the year for which the credit is claimed, the amount of the claim is 10%  
13 of the property taxes accrued or the amount determined under sub. (1), whichever  
14 is greater.

15 **SECTION 67.** 71.61 of the statutes is amended to read:

16 **71.61 General provisions. (1)** DEPARTMENT MAY APPLY CREDIT AGAINST ANY TAX  
17 LIABILITY. The amount of any claim otherwise payable under ~~this subchapter~~ ss. 71.57  
18 to 71.61 may be applied by the department against any amount certified to the  
19 department under s. 71.93 or 71.935 or may be credited under s. 71.80 (3) or (3m).

20 **(2) CREDITS ARE INCOME.** All amounts allowed as credits under ~~this subchapter~~  
21 ss. 71.57 to 71.61 constitute income for income and franchise tax purposes and are  
22 reportable as such in the year of receipt.

23 **(3) INTEREST NOT ALLOWED.** No interest may be allowed on any payment made  
24 to a claimant under ~~this subchapter~~ ss. 71.57 to 71.61.



1           **(3m)** ADMINISTRATION. The income tax provisions in this chapter relating to  
2       assessments, refunds, appeals and collection apply to the credit under this  
3       subchapter ss. 71.57 to 71.61.

4           **(4)** PENALTIES. Unless specifically provided in ~~this subchapter ss. 71.57 to~~  
5       71.61, the penalties under subch. XIII apply for failure to comply with this  
6       subchapter ss. 71.57 to 71.61 unless the context requires otherwise.

7           **(5)** TABLE PREPARED BY DEPARTMENT. The department shall prepare a table under  
8       which claims under ~~this subchapter ss. 71.57 to 71.61~~ shall be determined.

9           **SECTION 68.** 71.61 (6) of the statutes is created to read:

10          **71.61 (6) PROHIBITION OF NEW CLAIMS.** For taxable years beginning after  
11       December 31, 2009, no new claims for a credit may be filed under ss. 71.57 to 71.61,  
12       but if an otherwise eligible claimant is subject to a farmland preservation agreement,  
13       as defined in s. 91.01 (7), 2007 stats., that is in effect on July 1, 2010, the claimant  
14       may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland  
15       preservation agreement expires, except that no claimant who files a claim under ss.  
16       71.57 to 71.61 may file a claim under s. 71.613.

17          **SECTION 69.** 71.613 of the statutes is created to read:

18          **71.613 Farmland preservation credit, 2010 and beyond. (1) DEFINITIONS.**

19       In this section:

20           (a) "Agricultural use" has the meaning given in s. 91.01 (2).

21           (b) "Claimant" means an owner, as defined in s. 91.01 (9), 2007 stats., of  
22       farmland, domiciled in this state during the entire taxable year to which the claim  
23       under this section relates, who files a claim under this section, except as follows:

24           1. When 2 or more individuals of a household are able to qualify individually  
25       as a claimant, they may determine between them who the claimant shall be. If they

1 are unable to agree, the matter shall be referred to the secretary of revenue, whose  
2 decision is final.

3 2. If any person in a household has claimed or will claim credit under subch.  
4 VIII, all persons from that household are ineligible to claim any credit under this  
5 section for the year to which the credit under subch. VIII pertains.

6 3. For partnerships except publicly traded partnerships treated as  
7 corporations under s. 71.22 (1k), "claimant" means each individual partner.

8 4. For limited liability companies, except limited liability companies treated as  
9 corporations under s. 71.22 (1k), "claimant" means each individual member.

10 5. For purposes of filing a claim under this section, the personal representative  
11 of an estate and the trustee of a trust shall be considered owners of farmland.  
12 "Claimant" does not include the estate of a person who is a nonresident of this state  
13 on the person's date of death, a trust created by a nonresident person, a trust which  
14 receives Wisconsin real property from a nonresident person or a trust in which a  
15 nonresident settlor retains a beneficial interest.

16 6. For purposes of filing a claim under this section, when land is subject to a  
17 land contract, the claimant shall be the vendee under the contract.

18 7. For purposes of filing a claim under this section, when a guardian has been  
19 appointed in this state for a ward who owns the farmland, the claimant shall be the  
20 guardian on behalf of the ward.

21 8. For a tax-option corporation, "claimant" means each individual shareholder.

22 (c) "Department" means the department of revenue.

23 (d) "Farm" means a farm, as defined in s. 91.01 (13), that has produced at least  
24 \$6,000 in gross farm revenues during the taxable year to which the claim relates or,

1 in the taxable year to which the claim relates and the 2 immediately preceding  
2 taxable years, at least \$18,000 in gross farm revenues.

3 (e) "Farmland preservation agreement" has the meaning given in s. 91.01 (15).

4 (f) "Farmland preservation zoning district" has the meaning given in s. 91.01  
5 (18).

6 (g) "Gross farm revenues" means gross receipts from agricultural use of a farm,  
7 excluding rent receipts, less the cost or other basis of livestock or other agricultural  
8 items purchased for resale which are sold or otherwise disposed of during the taxable  
9 year.

10 (ge) "Household" means an individual and his or her spouse and all minor  
11 dependents.

12 (h) "Qualifying acres" means the number of acres of a farm that correlate to a  
13 claimant's percentage of ownership interest in a farm to which one of the following  
14 applies:

15 1. The farm is wholly or partially covered by a farmland preservation  
16 agreement, except that if the farm is only partially covered, the qualifying acres  
17 calculation includes only those acres which are covered by a farmland preservation  
18 agreement.

19 2. The farm is located in a farmland preservation zoning district at the end of  
20 the taxable year to which the claim relates.

21 3. If the claimant transferred the claimant's ownership interest in the farm  
22 during the taxable year to which the claim relates, the farm was wholly or partially  
23 covered by a farmland preservation agreement, or the farm was located in a farmland  
24 preservation zoning district, on the date on which the claimant transferred the

1 ownership interest. For the purposes of this subdivision, a land contract is a transfer  
2 of ownership interest.

3 (2) FILING CLAIMS. Subject to the limitations and conditions provided in sub. (3),  
4 a claimant may claim as a credit against the tax imposed under s. 71.02, 71.08, 71.23,  
5 or 71.43, an amount calculated by multiplying the claimant's qualifying acres by one  
6 of the following amounts, and if the allowable amount of the claim exceeds the income  
7 taxes otherwise due on the claimant's income or if there are no Wisconsin income  
8 taxes due on the claimant's income, the amount of the claim not used as an offset  
9 against income taxes shall be certified by the department of revenue to the  
10 department of administration for payment to the claimant by check, share draft, or  
11 other draft from the appropriations under s. 20.835 (2) (do) and (qb):

12 (a) Ten dollars, if the qualifying acres are located in a farmland preservation  
13 zoning district and are also subject to a farmland preservation agreement that is  
14 entered into after the effective date of this paragraph .... [LRB inserts date].

15 (b) Seven dollars and 50 cents, if the qualifying acres are located in a farmland  
16 preservation zoning district but are not subject to a farmland preservation  
17 agreement that is entered into after the effective date of this paragraph .... [LRB  
18 inserts date].

19 (c) Five dollars, if the qualifying acres are subject to a farmland preservation  
20 agreement that is entered into after the effective date of this paragraph .... [LRB  
21 inserts date], but are not located in a farmland preservation zoning district.

22 (3) LIMITATIONS AND CONDITIONS. (a) No credit may be allowed under this section  
23 unless all of the following apply:

1           1. The claimant certifies to the department that the claimant has paid, or is  
2           legally responsible for paying, the property taxes levied against the qualifying acres  
3           to which the claim relates.

4           2. The claimant certifies to the department that at the end of the taxable year  
5           to which the claim relates or, on the date on which the person transferred the person's  
6           ownership interest in the farm if the transfer occurs during the taxable year to which  
7           the claim relates, there was no outstanding notice of noncompliance issued against  
8           the farm under s. 91.82 (2).

9           3. The claimant submits to the department a certification of compliance with  
10          soil and water conservation standards, as required by s. 91.80, issued by the county  
11          land conservation committee unless, in the last preceding year, the claimant received  
12          a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

13          (b) If a farm is jointly owned by 2 or more persons who file separate income or  
14          franchise tax returns, each person may claim a credit under this section based on the  
15          person's ownership interest in the farm.

16          (c) If a person acquires or transfers ownership of a farm during a taxable year  
17          for which a claim may be filed under this section, the person may file a claim under  
18          this section based on the person's liability for the property taxes levied on the  
19          person's qualifying acres for the taxable year to which the claim relates.

20          (d) A claimant shall claim the credit under this section on a form prepared by  
21          the department and shall submit any documentation required by the department.  
22          On the claim form, the claimant shall certify all of the following:

23               1. The number of qualifying acres for which the credit is claimed.

24               2. The location and tax parcel number for each parcel on which the qualifying  
25          acres are located.

1           4. That the qualifying acres are covered by a farmland preservation agreement  
2 or located in a farmland preservation zoning district, or both.

3           5. That the qualifying acres are part of a farm that complies with applicable  
4 state soil and water conservation standards, as required by s. 91.80.

5           (e) No credit may be allowed under this section unless it is claimed within the  
6 time period under s. 71.75 (2).

7           (f) The maximum amount of the credits that may be claimed under this section  
8 in any fiscal year is \$27,280,000. If the total amount of eligible claims exceed this  
9 amount, the excess claims shall be paid in the next succeeding fiscal year to ensure  
10 that the limit specified in this paragraph is not exceeded.

11          (g) For the 2011-2012 fiscal year, and for every succeeding fiscal year, the  
12 department shall prorate the per acre amounts specified in sub. (2) based on the  
13 department's estimated amount of eligible claims that will be filed for that fiscal  
14 year, and to account for any excess claims from the preceding fiscal year that are  
15 required to be paid under par. (f).

16          (h) If the payment to which an eligible claimant is entitled under sub. (2) is  
17 delayed because the claim was an excess claim, as described in par. (f), the claimant  
18 is not entitled to any interest payment under s. 71.82 with regard to the delayed  
19 claim or with regard to any other refund to which the claimant is entitled if that other  
20 refund claim is claimed on the same income tax return as the credit under this  
21 section.

22          (4) ADMINISTRATION. The department may enforce the credit under this section  
23 and may take any action, conduct any proceeding, and proceed as it is authorized in  
24 respect to taxes under this chapter. The income and franchise tax provisions in this

chapter relating to assessments, refunds, appeals, collection, interest, and penalties apply to the credit under this section.

**SECTION 70.** Chapter 91 of the statutes is repealed and recreated to read:

## **CHAPTER 91**

### **FARMLAND PRESERVATION**

#### **SUBCHAPTER I**

#### **DEFINITIONS AND GENERAL PROVISIONS**

**91.01 Definitions.** In this chapter:

(1) "Accessory use" means any of the following land uses on a farm:

(a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.

(b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.

(c) A farm residence.

(d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

(e) Any other use that the department, by rule, identifies as an accessory use.

(1m) "Agricultural enterprise area" means an area designated in accordance with s. 91.84.

(2) "Agricultural use" means any of the following:

1 (a) Any of the following activities conducted for the purpose of producing an  
2 income or livelihood:

3 1. Crop or forage production.

4 2. Keeping livestock.

5 3. Beekeeping.

6 4. Nursery, sod, or Christmas tree production.

7 4m. Floriculture.

8 5. Aquaculture.

9 6. Fur farming.

10 7. Forest management.

11 8. Enrolling land in a federal agricultural commodity payment program or a  
12 federal or state agricultural land conservation payment program.

13 (b) Any other use that the department, by rule, identifies as an agricultural use.

14 (3) "Agriculture-related use" means any of the following:

15 (a) An agricultural equipment dealership, facility providing agricultural  
16 supplies, facility for storing or processing agricultural products, or facility for  
17 processing agricultural wastes.

18 (b) Any other use that the department, by rule, identifies as an  
19 agriculture-related use.

20 (5) "Base farm tract" means one of the following:

21 (a) All land, whether one parcel or 2 or more contiguous parcels, that is in a  
22 farmland preservation zoning district and that is part of a single farm when the  
23 department under s. 91.36 (1) first certifies the farmland preservation zoning  
24 ordinance covering the land, regardless of any subsequent changes in the size of the  
25 farm.



1 (b) Any other tract that the department by rule defines as a base farm tract.

2 (6) "Certified farmland preservation plan" means a farmland preservation  
3 plan that is certified as determined under s. 91.12.

4 (7) "Certified farmland preservation zoning ordinance" means a zoning  
5 ordinance that is certified as determined under s. 91.32.

6 (8) "Chief elected official" means the mayor of a city or, if the city is organized  
7 under subch. I of ch. 64, the president of the council of that city, the village president  
8 of a village, the town board chairperson of a town, or the county executive of a county,  
9 or, if the county does not have a county executive, the chairperson of the county board  
10 of supervisors.

11 (9) "Comprehensive plan" has the meaning given in s. 66.1001 (1) (a).

12 (10) "Conditional use" means a use allowed under a conditional use permit,  
13 special exception, or other special zoning permission issued by a political  
14 subdivision.

15 (11) "County land conservation committee" means a committee created under  
16 s. 92.06 (1).

17 (12) "Department" means the department of agriculture, trade and consumer  
18 protection.

19 (13) "Farm" means all land under common ownership that is primarily devoted  
20 to agricultural use.

21 (14) "Farm acreage" means size of a farm in acres.

22 (15) "Farmland preservation agreement" means any of the following  
23 agreements between an owner of land and the department under which the owner  
24 agrees to restrict the use of land in return for tax credits:

1 (a) A farmland preservation agreement or transition area agreement entered  
2 into under s. 91.13, 2007 stats., or s. 91.14, 2007 stats.

3 (b) An agreement entered into under s. 91.60 (1).

4 **(16)** "Farmland preservation area" means an area that is planned primarily  
5 for agricultural use or agriculture-related use, or both, and that is one of the  
6 following:

7 (a) Identified as an agricultural preservation area or transition area in a  
8 farmland preservation plan described in s. 91.12 (1).

9 (b) Identified under s. 91.10 (1) (d) in a farmland preservation plan described  
10 in s. 91.12 (2).

11 **(17)** "Farmland preservation plan" means a plan for the preservation of  
12 farmland in a county, including an agricultural preservation plan under subch. IV  
13 of ch. 91, 2007 stats.

14 **(18)** "Farmland preservation zoning district" means any of the following:

15 (a) An area zoned for exclusive agricultural use under an ordinance described  
16 in s. 91.32 (1).

17 (b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in  
18 an ordinance described in s. 91.32 (2).

19 **(19)** "Farm residence" means any of the following structures that is located on  
20 a farm:

21 (a) A single-family or duplex residence that is the only residential structure  
22 on the farm or is occupied by any of the following:

23 1. An owner or operator of the farm.

24 2. A parent or child of an owner or operator of the farm.

1           3. An individual who earns more than 50 percent of his or her gross income from  
2 the farm.

3           (b) A migrant labor camp that is certified under s. 103.92.

4           **(20)** "Gross farm revenues" has the meaning given in s. 71.613 (1) (g).

5           **(20m)** "Livestock" means bovine animals, equine animals, goats, poultry,  
6 sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and  
7 farm-raised fish.

8           **(21)** "Nonfarm residence" means a single-family or multi-family residence  
9 other than a farm residence.

10          **(22)** "Nonfarm residential acreage" means the total number of acres of all  
11 parcels on which nonfarm residences are located.

12          **(22m)** "Overlay district" means a zoning district that is superimposed on one  
13 or more other zoning districts and imposes additional restrictions on the underlying  
14 districts.

15          **(23)** "Owner" means a person who has an ownership interest in land.

16          **(23m)** "Permitted use" means a use that is allowed without a conditional use  
17 permit, special exception, or other special zoning permission.

18          **(24)** "Political subdivision" means a city, village, town, or county.

19          **(25)** "Prime farmland" means any of the following:

20           (a) An area with a class I or class II land capability classification as identified  
21 by the natural resources conservation service of the federal department of  
22 agriculture.

23           (b) Land, other than land described in par. (a), that is identified as prime  
24 farmland in a certified farmland preservation plan.

1           (26) “Prior nonconforming use” means a land use that does not conform with  
2           a farmland preservation zoning ordinance, but that existed lawfully before the  
3           farmland preservation zoning ordinance was enacted.

4           (27) “Protected farmland” means land that is located in a farmland  
5           preservation zoning district, is covered by a farmland preservation agreement, or is  
6           otherwise legally protected from nonagricultural development.

7           (28) “Taxable year” has the meaning given in s. 71.01 (12).

8           **91.02 Rule making.** (1) The department shall promulgate rules that set forth  
9           technical specifications for farmland preservation zoning maps under s. 91.38 (1) (d).

10          (2) The department may promulgate rules for the administration of this  
11          chapter, including rules that do any of the following:

12           (a) Identify accessory uses under s. 91.01 (1) (e).

13           (b) Identify agricultural uses under s. 91.01 (2) (b).

14           (c) Identify agriculture-related uses under s. 91.01 (3) (b).

15           (d) Identify base farm tracts under s. 91.01 (5) (b).

16           (e) Specify requirements for certification under s. 91.18 (1) (b).

17           (f) Require information in an application for certification of a farmland  
18          preservation plan or amendment under s. 91.20 (4).

19           (g) Specify types of ordinance amendments for which certification is required  
20          under s. 91.36 (8) (b) 3.

21           (h) Specify exceptions to the requirement that land in a farmland preservation  
22          zoning district be included in a farmland preservation area under s. 91.38 (1) (g).

23           (i) Specify requirements for certification of a farmland preservation zoning  
24          ordinance under s. 91.38 (1) (i).

1 (j) Require information in an application for certification of a farmland  
2 preservation zoning ordinance or amendment under s. 91.40 (5).

3 (k) Authorize additional uses in a farmland preservation zoning district under  
4 s. 91.42 (4).

5 (L) Authorize additional uses as permitted uses in a farmland preservation  
6 zoning district under s. 91.44 (1) (g).

7 (m) Authorize additional uses as conditional uses in a farmland preservation  
8 zoning district under s. 91.46 (1) (j).

9 (o) Designate agricultural enterprise areas and modify and terminate  
10 designations of those areas under s. 91.84.

11 (p) Require information in an application for a farmland preservation  
12 agreement under s. 91.64 (2) (h).

13 (r) Prescribe procedures for compliance monitoring under s. 91.82 (3).

14 **91.03 Intergovernmental cooperation.** State agencies shall cooperate with  
15 the department in the administration of this chapter and in other matters related  
16 to the preservation of farmland in this state. State agencies shall, to the extent  
17 feasible, cooperate in sharing and standardizing relevant information, identifying  
18 and mapping significant agricultural resources, and planning and evaluating the  
19 impact of state actions on agriculture.

20 **91.04 Department to report.** At least once every 2 years, beginning not later  
21 than December 31, 2011, the department shall submit a farmland preservation  
22 report to the board of agriculture, trade and consumer protection and provide copies  
23 of the report to the department of revenue and the department of administration.  
24 The department shall prepare the report in cooperation with the department of  
25 revenue and shall include all of the following in the report:

1           (1) A review and analysis of farmland availability, uses, and use trends in this  
2 state, including information related to farmland conversion statewide and by county.

3           (2) A review and analysis of relevant information related to the farmland  
4 preservation program under this chapter and associated tax credit claims under  
5 subch. IX of ch. 71, including information related to all of the following:

6           (a) Participation in the program by political subdivisions and landowners.

7           (b) Tax credit claims by landowners, including the number of claimants, the  
8 amount of credits claimed, acreage covered by tax credit claims, the amount of credits  
9 claimed under zoning ordinances and under farmland preservation agreements, and  
10 relevant projections and trends.

11           (c) The number, identity, and location of counties with certified farmland  
12 preservation plans.

13           (d) Trends and developments related to certification of farmland preservation  
14 plans.

15           (e) The number, identity, and location of political subdivisions with certified  
16 farmland preservation zoning ordinances.

17           (f) Trends and developments related to certification of farmland preservation  
18 zoning ordinances.

19           (g) The number, nature, and location of agricultural enterprise areas.

20           (h) The number and location of farms covered by farmland preservation  
21 agreements, including new farmland preservation agreements, and the number and  
22 location of farms for which farmland preservation agreements have expired.

23           (i) Conservation compliance by landowners under s. 91.80 and compliance  
24 activities by county land conservation committees under s. 91.82.

(j) Rezoning of land out of farmland preservation zoning districts under s. 91.48, including the amounts of conversion fees paid to political subdivisions under s. 91.48 (1) (b).

(k) Program costs, cost trends, and cost projections.

(L) Key issues related to program performance and key recommendations, if any, for enhancing the program.

## SUBCHAPTER II

### FARMLAND PRESERVATION PLANNING

**91.10 County plan required; planning grants.** (1) By January 1, 2015, a county shall adopt a farmland preservation plan that does all of the following:

(a) States the county's policy related to farmland preservation and agricultural development, including the development of enterprises related to agriculture.

(b) Identifies, describes, and documents other development trends, plans, or needs, that may affect farmland preservation and agricultural development in the county, including trends, plans, or needs related to population and economic growth, housing, transportation, utilities, communications, business development, community facilities and services, energy, waste management, municipal expansion, and environmental preservation.

(c) Identifies, describes, and documents all of the following:

1. Agricultural uses of land in the county at the time that the farmland preservation plan is adopted, including key agricultural specialities, if any.

2. Key agricultural resources, including available land, soil, and water resources.

3. Key infrastructure for agriculture, including key processing, storage, transportation, and supply facilities.

1           4. Significant trends in the county related to agricultural land use, agricultural  
2           production, enterprises related to agriculture, and the conversion of agricultural  
3           lands to other uses.

4           5. Anticipated changes in the nature, scope, location, and focus of agricultural  
5           production, processing, supply, and distribution.

6           6. Goals for agricultural development in the county, including goals related to  
7           the development of enterprises related to agriculture.

8           7. Actions that the county will take to preserve farmland and to promote  
9           agricultural development.

10          8. Key land use issues related to preserving farmland and to promoting  
11          agricultural development and plans for addressing those issues.

12          (d) Clearly identifies areas that the county plans to preserve for agricultural  
13          use and agriculture-related uses, which may include undeveloped natural resource  
14          and open space areas but may not include any area that is planned for  
15          nonagricultural development within 15 years after the date on which the plan is  
16          adopted.

17          (e) Includes maps that clearly delineate all areas identified under par. (d), so  
18          that a reader can easily determine whether a parcel is within an identified area.

19          (f) Clearly correlates the maps under par. (e) with text that describes the types  
20          of land uses planned for each area on a map.

21          (g) Identifies programs and other actions that the county and local  
22          governmental units within the county may use to preserve the areas identified under  
23          par. (d).

24          (2) If the county has a comprehensive plan, the county shall include the  
25          farmland preservation plan in its comprehensive plan and shall ensure that the



1 farmland preservation plan is consistent with the comprehensive plan. The county  
2 may incorporate information contained in other parts of the comprehensive plan into  
3 the farmland preservation plan by reference.

4 (3) To adopt a farmland preservation plan under sub. (1), a county shall follow  
5 the procedures under s. 66.1001 (4) for the adoption of a comprehensive plan.

6 (4) The department may provide information and assistance to a county in  
7 developing a farmland preservation plan under sub. (1).

8 (5) A county shall notify the department before the county holds a public  
9 hearing on a proposed farmland preservation plan under sub. (1) or on any  
10 amendment to a farmland preservation plan. The county shall include a copy of the  
11 proposed farmland preservation plan or amendment in the notice. The department  
12 may review and comment on the plan or amendment.

13 (6) (a) From the appropriation under s. 20.115 (7) (dm) or (tm), the department  
14 may award a planning grant to a county to provide reimbursement for up to 50  
15 percent of the county's cost of preparing a farmland preservation plan required under  
16 sub. (1). In determining priorities for awarding grants under this subsection, the  
17 department shall consider the expiration dates for plan certification under s. 91.14.

18 (b) The department shall enter into a contract with a county to which it awards  
19 a planning grant under par. (a) before the department distributes any grant funds  
20 to the county. In the contract, the department shall identify the costs that are eligible  
21 for reimbursement through the grant.

22 (c) The department may distribute grant funds under this subsection only after  
23 the county shows that it has incurred costs that are eligible for reimbursement under  
24 par. (b). The department may not distribute more than 50 percent of the amount of

1 a grant under this subsection for a farmland preservation plan before the county  
2 submits the farmland preservation plan for certification under s. 91.16.

3 **91.12 Certified plan.** The following farmland preservation plans are  
4 certified, for the purposes of this chapter and s. 71.613:

5 (1) An agricultural preservation plan that was certified under s. 91.06, 2007  
6 stats., if the certification has not expired.

7 (2) A farmland preservation plan that was certified under s. 91.16 if the  
8 certification has not expired or been withdrawn.

9 **91.14 Expiration of plan certification.** (1) The certification of a farmland  
10 preservation plan that was certified under s. 91.06, 2007 stats., expires on the date  
11 provided in the certification or, if the certification does not provide an expiration  
12 date, on the following date:

13 (a) December 31, 2011, for a county with an increase in population per square  
14 mile of more than 9 percent.

15 (b) December 31, 2012, for a county with an increase in population per square  
16 mile of more than 3.75 percent but not more than 9 percent.

17 (c) December 31, 2013, for a county with an increase in population per square  
18 mile of more than 1.75 percent but not more than 3.75 percent.

19 (d) December 31, 2014, for a county with an increase in population per square  
20 mile of more than 0.8 percent but not more than 1.75 percent.

21 (e) December 31, 2015, for a county with an increase in population per square  
22 mile of not more than 0.8 percent.

23 (2) The certification of a farmland preservation plan that the department  
24 certifies under s. 91.16 expires on the date specified under s. 91.16 (2).